



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

HOW PHILOSOPHERS MAY BE USEFUL TO SOCIETY.¹

THOMAS REED POWELL.

SOME word of apology is due from a mere lawyer who ventures to talk to a company of those who move in the higher realm of philosophy. My best excuse is that I was invited. I did not rush in; and I honestly fear to tread. But I recognize that I possess in ample measure the qualification desired by your committee on program. You have wished to hear from some one who is not a philosopher, and your wish is now to be fulfilled. In thanking you for the courtesy of your invitation, I beg to point out that it carries with it an obligation on your part to be charitable to my shortcomings to the full extent that they are characteristic of the qualification upon which you insisted. I have escaped being a philosopher, even though I sat under the same teacher of philosophy with whom John Dewey began his philosophic studies in the old Vermont college from which we both came. He was a noble gentleman, but, unfortunately for me, he could not make bricks without straw and his product varied according to the material with which he worked. I have also escaped being a philosopher in spite of reading the first paragraph of most of the articles in the *Journal of Philosophy* during the past five years. Those of you who have read the succeeding paragraphs know better than I what I have missed. I sometimes wonder just why I have been able to practice this self-restraint. Why is it that most of the articles written by professional philosophers have no compelling interest for those who are curious about both the speculative and the practical aspects of the problems that arise in running the

¹ A paper read before the Eastern Division of the American Philosophical Association on December 30, 1920, as part of a symposium on the subject: "The Rôle of the Philosopher in Modern Life, with Reference Both to Teaching and to Research."

affairs of the world? I infer from the advance abstract of Professor Pratt's paper that his answer is that philosophy has slight concern with such problems.² But I assume from the topic set for this conference that the rest of you are not equally retiring. It is not for an outsider to mix in such family quarrels. I can only commend your disposition to hear all sides, and then pass on to my particular task which obviously depends for its existence upon an assumption contrary to that which Professor Pratt cherishes.

I find this task less easy than it would have been had I written my paper as soon as your invitation came. Compliance with your request for an advance abstract has proved embarrassing. There was nothing to abstract, so I composed a prospectus, and in it I find that I have put the gist of all I have to say.³ Yet I still must write my paper

² Professor Pratt's abstract, as printed in the *Journal of Philosophy*, Vol. 17, pp. 690-691, is as follows:

"The philosopher's duties are twofold; toward the general public and (if he be a teacher) toward his students and his institution. Toward the general public the philosopher has the same duties as have other intelligent citizens—to formulate an opinion on important questions and to use his influence in what he regards as the right direction. Whether he has duties *qua* philosopher which go beyond this will depend on the extent to which he can be said to be in possession of special knowledge or skill bearing on public questions. The philosopher as such may be regarded as a specialist in four fields—Psychology, Ethics, Logic, Metaphysics. As psychologist the philosopher may properly be regarded as a specialist on certain aspects of certain public questions; and with this special knowledge goes a corresponding duty. It is very doubtful whether in any of his three other capacities he has anything of special value to offer to the public.

"He should refrain from spending more than a little of his time on practical issues for still another reason, namely because he has other things of importance to do; and if he devotes himself largely to solving the world's practical difficulties he will perforce neglect some of his more special duties and will bring philosophy into disrespect. The practical applications of philosophy are merely its by-products. The chief function of the philosopher consists in championing and keeping alive the spiritual life of man. Especially in the age in which we live is there great need of this."

³ This prospectus, as printed in the *Journal of Philosophy*, Vol. 17, pp. 688-689, is as follows:

"The contribution of the philosopher to the solution of the problems of the social sciences may begin by shedding light on the questions whether the social sciences are sciences and whether their problems are susceptible of solution. The philosopher, as an outsider, may be expected to be free from a number of assumptions unconsciously accepted by students of special aspects of social relations. He can therefore help them to uncover these assumptions and trace them to their origins. He can show them the extent to which their methods

while the mood in which I drafted the prospectus has yielded to one so different that I might easily be convicted of false impersonation of myself. For in the interim I have been disobedient to the injunction "Do not open until Christmas" and have been revelling in the immortal letters of William James and the poems of Edwin Arlington Robinson. I have attended a funeral on the white Vermont hillside where four generations of my family are buried, and I have been deceiving my children about Santa Claus. These are not experiences to make one intent on considering how the philosopher can help solve the problems of society. They make one sympathetic towards Professor Pratt's credo that "the chief function of the philosopher consists in championing and keeping alive the spiritual life of man." If any or all of you can feed and warm the craving spirit of man by a tithe of a tithe of what William James has done, and thanks to the immortality of the printed page will always do, God forbid that you should be distracted by the problems of society. Gratitude for William James tempts one to be tolerant even towards those of you who incline to the Moody and Sankey school of feeling and expression. Blessed are the music makers and the dreamers

are common to a number of disciplines and put them in touch with developments elsewhere that have a bearing on their special work. He can teach them to be more critical of their modes of reasoning and of their canons of judgment. He can tell them when they set artificial boundaries to their inquiries and can hint to them what lies beyond. He can help them to see how much of their judgments is based on technical, expert knowledge, and how much is mere personal preference. If he approaches them in a humble spirit he can teach them to be humble.

"To do effectively what is here suggested, each individual philosopher should acquire familiarity with some one of the special fields of inquiry in which students of society claim a proprietary interest. Law has a special claim to attention because it is made up of a series of human judgments which are for their purpose authoritative. Here issues are really settled, so far as concerns the case at bar. Out of a series of antecedent facts arises a new fact which must be taken account of. Much of the law is philosophy in action. Whether good or bad philosophy it actually does a genuine job. In so far forth it is so whether it is so or not. Law is solid food for philosophers to sharpen their teeth on. A study of authoritative human judgments is a study of ethical ideals or of practical compromises that are matters of fact and not merely of aspiration. Philosophers may perhaps profit from walking in places where they are sure to know when they stub their toes. In learning enough about law to be able to help lawyers improve their methods and their product, philosophers may gather material which is of use for their philosophical inquiries and may acquire greater skill in keeping their feet on the ground while their heads are in the air."

of dreams whenever they minister to those who have need of them. Yet as I think again of those first paragraphs of your articles in the *Journal of Philosophy*, I begin to doubt whether my spirit has been more cold or hungry than it would have been had I read on to the end. I find so many of you obsessed with the technique of an esoteric discipline quite remote from the spiritual life of man. And so I am persuaded that no stone should be hanged about my neck if anything I say should tempt the least or the greatest among you to follow the trail of this conference into the fields which students of society have marked out. I fear no loss to the spiritual life of man from any such excursions. For I am confident that any of you with a spiritual message to give will find for your kindling insight the same need and scope in man's relation to his neighbors as in his relation to himself or to the unseen. Even if there is occasional antagonism between these two relations, the way of the cloister is not victory but surrender. I venture to think, therefore, that Professor Pratt's premise does not lead to his conclusion. I doubt if one can champion and keep alive the spiritual life of man if one neglects wholly the practical issues that arise in his relations to his fellows and to the institutions and associations around which so many of these relations gather. The truth that man does not live by bread alone is not confined to the life of the imaginary person who is abstracted from his human environment.

I

The general subject of this conference is, I take it, how can philosophy helpfully be brought to bear upon something else than philosophy. Can it profitably nourish something else than itself or profitably feed on something else than itself? The special topic suggested for my consideration is "the relation of philosophy to the social sciences" in the hope of finding out "how far it may contribute to these and to the solution of their problems." The phrasing is not mine. It raises at once two questions which are, I take it, somewhat philosophical in their nature. Are the

social sciences, sciences? Whatever they are, are their problems susceptible of solution? The first question may be little more than an invitation to dispute about terminology. Yet terminology and classification may be convenient tools for getting at something more important. It is well, at any rate, to remind ourselves that the disciplines often known as the social sciences differ radically from other enterprises with which the term "science" is a claim to kinship. Of centigrams and centimeters and of controlled and repeated experiments, the so-called social sciences know comparatively little. They are, it is true, making increasing use of index numbers and coefficients of correlation, and are thereby approaching more nearly to precision in the collection and co-ordination of their chosen groups of facts. They are subjecting some of their hypotheses to modes of verification which tell them at least something about the margin of error. Yet these tools are at the mercy of but a few of the thinkers in the fields of inquiry frequented by students of society. Most of us have to do the best we can in some other way. As Mr. Justice Holmes has put it:

"In the law we only occasionally can reach an absolutely final and quantitative determination, because the worth of the competing social ends which respectively solicit a judgment for the plaintiff or the defendant cannot be reduced to number and accurately fixed. The worth, that is, the intensity of the competing desires, varies with the various ideals of the time, and, if the desires were constant, we could not get beyond a relative decision that one was greater than the other. But it is of the essence of improvement that we should be as accurate as we can."

"Being as accurate as we can" seems a fairly good general definition of scientific method. It demands higher talents than those that merely tot up items. Paradoxical as it may seem, it is sometimes possible to weigh the imponderable and to grasp the intangible. This is done by the ward politician, and it is one of the tasks of the student of politics. As philosophers are familiar with both the heaviest and the lightest imponderables and are at home with the most elusive and the most cageable intangibles, they may be

expected to help their less gifted colleagues in handling such shadowy substances with as firm a grasp as their shadowy nature permits.

Where counting and weighing are not possible, we need some other technique. In dealing with social problems we need a technique that is born of imaginative sympathy and is controlled by honest and clear-headed dispassionate-ness. We need both passion and the governance of passion. We need the proper fusion of feeling and thinking. We need men versed in discerning and evaluating both simple and complex relations, in distinguishing the enduring from the evanescent, the trivial from the fundamental, the symbol from the substance. We need men who can keep their heads in the presence of the passion that comes from fear or from desire. In a word we need men who have the philosophic spirit. This spirit cannot get us far without a knowledge of the facts. But it can help us to get a knowledge of the facts. For this philosophic spirit where shall we turn more hopefully than to the philosophers and to those who have sat at the feet of the philosophers? Whether you study our specific problems or not, you will help us to deal with them if you give us examples of that fine temper and discipline of the mind which the pursuit of philosophy professes to produce. Be a model of clear perception and calm reflection, and your students will be better citizens and governors. Be a master of sifting and weighing evidence, and your students will be better jurors and judges. Know when you do not know, and your students will be less likely to indulge in the dogmatism that is the easy offspring of ignorance. Control the instinct for partisan bias, and your students will be more eager for balances untipped by prejudice. Without these qualities you cannot contribute to the solution of our problems. With them, you cannot keep from contributing. By and large, I take it, your indirect influence on the minds of those who sit in your class rooms will be a more potent force for good or for evil in public affairs than any specific contributions that you will make to the discussion of social problems. Your opportunity is

the greater because so much is expected of you. You are regarded as the high priests in the temple of wisdom. If you turn out to be little shambling acolytes, the temple itself loses its sanctity.

II

With the requisite qualities of mind, and the power to use them in the presence of temptation to resort to qualities less noble, you need not greatly care whether you are applying them to the problems of metaphysics or of law or economics or history. It is essential, however, that you be not ignorant of that to which you apply them. It will not do to emulate the student who wrote in his examination paper that he did not know the facts but understood their significance. Before you apply your powers to the handling of social problems you must understand what those problems are. You cannot understand the labor problem from the economics you learned a generation ago or from what you read in the newspapers. You cannot understand international relations by reading diplomatic notes or the speeches of presidential candidates. You cannot understand constitutional law from reading the Constitution or a few scattered opinions of the judges. Your look from the outside can be of great value just because it is from the outside; but this value is conditioned on your knowing what you are looking at. Do not flatter yourselves that you have the secret of an intellectual poultice that will heal the body politic whenever or wherever applied. The *a priori* remedies for social ills are many, but their cures are *null*. And here I may venture the opinion that there are no cures for social ills that have ever proved complete or lasting. We do not solve social problems. At best we escape from them by means which leave other problems less vexing. At worst we jump from the frying pan into the fire. A purely intellectual problem can be solved, because it can be created so that it has the seeds of its solution. The mind giveth, the mind taketh away; blessed be the name of the mind. But the problems of society do not

stay still long enough to be solved. While we are passing judgment, the facts have changed, and we render our verdict on an hypothesis instead of a reality. Our very verdict is one of the facts that enter into our problem. It often unsettles more than it settles.

I have purposely let myself go beyond my depth so that I may raise a Macedonian cry. I feel strongly that students of law and of economics do not realize the extent to which they concern themselves with hypothetical issues of their own creation. I am convinced that often they deal with fantasies rather than with facts. I know that they need to have some one come and help them out. We intellectualize our problems and thereby we falsify them. If you realized how much of legal and economic analysis is nothing but the tight articulation of loose artificialities, you would burn with missionary zeal. I do not say that you could not be excused for passing by on the other side, if you remind us of the slogan that charity beginneth at home. But I do say that, if you have faults of your own, you can become more clearly aware of them by observing their counterpart in the doctors of law and of economics. This is not merely because it is easier to see the mote in your neighbor's eye than the beam in your own. Much more is it, in my judgment, because the flaws and the artificiality in economic and legal reasoning show up more distinctly in the result than do similar sins in the enterprise of pure metaphysics. In law and in economics it often makes an important difference whether you go straight or crooked. And in these fields, too, there is something more objective and tangible to talk about than in metaphysics. There are more extrinsic aids to make use of in checking up what you have done. Internal consistency alone cannot so easily satisfy. Loading the premise is more readily exposed to view. Though I put my comparison dogmatically, I mean it only as a suggestion. To those of you who are skilled in metaphysics, the errors of the ways of your colleagues may be as patent as the errors of my colleagues in law are to me. In so far as this is so, I must abandon the first appeal of Moses to

Hobab in favor of the second that presumably prevailed. Instead of saying "Come thou with us and we will do thee good," I will urge: "Leave us not, I pray thee; forasmuch as thou knowest how we are to encamp in the wilderness, and thou mayest be to us instead of eyes." If for no other reason, come thou with us for we have need of thee.

Of this need none can doubt. Our great dependence upon the technique of reasoning is too obvious to need elaboration. Judicial opinions are full of flabby classification and false antitheses, of words that say more than they mean, of vicious abstractions and unwarranted generalizations that obscure genuine issues. Probably the syllogism is neither used nor abused as much as might be expected. But I am sure that the dilemma is present in thousands of cases where it is not explicitly recognized, and that rash results are reached by grasping one horn firmly and entirely forgetting the other. That this is not always so is evident from a classic statement of Mr. Justice Holmes which I never tire of quoting. In discussing a question of the police power, he says:

"All rights tend to declare themselves absolute to their logical extreme. Yet all in fact are limited by the neighborhood of principles of policy which are other than those on which the particular right is founded, and which become strong enough to hold their own when a certain point is reached. The limits set to property by other public interests present themselves as a branch of what is called the police power of the state. The boundary at which the conflicting interests balance cannot be determined by any formula in advance, but points along the line, or helping to establish it, are fixed by decisions that this or that concrete case falls on the nearer or the farther side."

Here is the recognition that many legal problems as formulated present instances of the irresistible force meeting the immovable body, and that the formulations are true only in so far forth. If this happens when we confine ourselves to the accepted data of the law, I hesitate to think how often it must appear if the data of the law are not accepted as the sole criteria. How often would the philosopher armed with the meaning and the power of what the law rejects entirely look upon us lawyers as upon children play-

ing with dolls? How many revaluations might you thus force upon us? Not until you try can you know how much you might work "designs on the night of our knowledge, . . . so that haply we know somewhat more than we know."

III

Some of the most perplexing problems of jurisprudence arise from the double function of authoritative adjudication. Each decree is both an end and a beginning. It settles something about the past. It projects something new into the future. I have the glimmering of an idea which I cannot express, that what is settled is not what we assume it to be. Every decision of an appellate court is a judgment on a hypothetical state of facts. The judges no longer care what is really so. They are interested only in what appears to be so on the face of the record from the trial court. We have an elaborate and in many respects an artificial mechanism for transmuting the deeds and intents of men into a printed record. In so far as the process of transmutation conforms to the required procedure, the record is final for the purpose of the law. But it still remains at best an hypothesis. The further issues raised by the hypothesis may be said to be settled when they are finally passed upon by the court above. There is an actual solution of a hypothetical issue. Some one must pay money or go to jail because of an opinion on an assumed state of facts. But the solution of such hypothetical issues may touch only the fringe of the actual issues. It is like settling the issue as to who shall be President without settling anything else. I do not mean by this dim gesture to point a contrast between the problems of law and of society and the problems of philosophy. There is, I doubt not, as great a proportion of hypothetical issues in philosophy as in law. But philosophers do not sit on the woolsack or wear the ermine. They are not fettered by *res adjudicata* and *stare decisis*. From *stare decisis* we see what I had in mind when I said a little while ago that our very verdict is one of the facts that enter into our problem. We have to

remember that our disposition of the controversy immediately before us affects others yet to come. We have to think about not only what we are thinking about but also about what we are going to think about it. We are always making points which help to establish a line. The greatest intellectual difficulties in the law arise from the fact that law is a system which demands a degree of coherence between its several parts. These difficulties are unduly enhanced by our pretence that the system is much more complete and closed than it really is. It really has many open pores and great leeway in its joints. We are borrowing all the time without realizing it. The worst of the law is the law that feeds only on law. As outsiders, philosophers might recognize this more readily than we who can usually fill our practical rôle by merely frying in our own fat. You can make us as thinkers be more conscious of how much we borrow and so help us to see our need of borrowing and of borrowing wisely. And if in the process you are compelled to think more carefully whether your calling like ours brings myopia to those whose nose is always to the grindstone, and whether it is the worst or the best of philosophy that feeds only on philosophy, you will be reaping the assured reward of those who cast their bread upon the waters. Perhaps we may say not only that we have need of thee but also that we will do thee good.

The presence of the dilemma in so many cases in law compels us to ask how the issues are decided when they cannot be settled by logic. The large answer is that the judges do what they think the best thing to do in the premises. And so the law is an agglomeration of instances of what courts think the best thing to do. I am loth to believe with Professor Pratt that the philosopher as a specialist in Ethics has nothing of special value to offer the public in evaluating the things which courts have thought best. While the fields of law and of ethics are not coterminous, they have much in common. I fail to see how one can consider ethical problems without dealing with matters that concern the law. Unless the student of ethics is content to

take his standards from the Bible or from his own inner consciousness, he must be interested to know the standards which others hold and strive to apply. Unless the philosopher would be content to know what Robinson Crusoe should do with no Man Friday around to complicate matters, he should be especially interested in the ethical problems that arise out of the conflicting ideals and interests of men living in society. He should care about the obligations that are deemed sufficiently important to be enforced as well as about those that are left to the forum of conscience. He should care about the standards that actually prevail as well as about those that he thinks or feels ought to prevail. And above all he should realize that the difficulties in ethics arise far less in the formulation of precepts than in their application to concrete quarrels. By their fruits ye shall know them. The bite of the law is in its applications. In a judgment that is an order to the sheriff, technique of reasoning and perception of values express themselves in ways that count. The applications bring precepts and formulas from the clouds to the earth. They and they only tell what the precepts and the formulas really mean. To quote again from Mr. Justice Holmes:

"Our system of morality is a body of imperfect social generalizations expressed in terms of emotion. To get at its truth, it is useful to omit the emotion and ask ourselves what those generalizations are and how far they are confirmed by fact accurately ascertained."

And in another connection he tells us:

"A generalization is empty so far as it is general. Its value depends upon the number of particulars which it calls up to the speaker and the hearer. Hence the futility of arguments on economic questions by one whose memory is not stored with economic facts."

Unless there is no such animal as an ethical fact, the same must be true of argument on ethical questions. An ethics which stops with the precept and cares nothing about its application or the process by which it is reached seems at best only a pleasant flight of fancy. And if ethics does care about the application and the process, it can find no more fruitful field for study than that of the law. I should lay especial emphasis on the process. The situations of life

are so infinite in their variety that a knowledge of ethical precedents would by itself help us little more than the mastery of Peter Piper Picked a Peck of Pickled Peppers helped the stutterer who found that it did not often oc-c-c-ur in c-c-c-onversation. What is needed for ethics is to inculcate the ethical mind. What we call the legal mind develops from intensive study of the process by which judicial decisions are reached. So it should contribute to the development of the ethical mind to devote attention to the process by which ethical decisions are reached by the courts. Continual practice in the discipline of forming ethical judgments has the same advantages over studying ethical principles that running has over reading about running.

IV

The discerning among you will observe that I have been thinking of you in your rôle of pedagogue as well as in your rôle of philosopher, and that I have left it to you to make the proper apportionment of my suggestions. Even if it be conceded that the material of the law offers little to you as philosophers, it may still be urged that it offers much to you as pedagogues. By not confining yourselves wholly to the ruminations of philosophers you can help to overcome the ever-present evil in the existence of that educational device known as the curriculum. Who knows how much students have suffered from the impression that their only task is to master a subject and from the delusive comfort that when a course is over and the examination successfully completed they have, in the lingo of the undergraduate, passed off the subject? Of all disciplines, philosophy seems to me least entitled to be regarded as a subject apart and aloof from others. With all deference to professional philosophers who may differ, I submit that the love of wisdom which is assumed to animate the philosopher is no passive adoration of some pure intellectual image. A man to be wise must be wise about something. Wisdom is not an end, but a means to other ends. It is a guide, not a goal. By bearing this in mind and letting it play its proper part in your instruction, you may extend the horizons of your

class-rooms and persuade your students that the qualities of mind which you exemplify and which you seek to inculcate can be used in other ways than to pass examinations in philosophy. One of the greatest things we can do for students is to train them in philosophic method, using the word in its largest sense to cover the appreciation of values as well as skill in taking connected steps. But the best way to teach philosophic method is to make it do a piece of work, with as little self assertion in the process as possible. And in saying this, let me hasten to confess the sinfulness of this paper throughout. I hope some time to atone for it by writing the paper that this ought to have been. It should have taken some selected judicial opinions and shown how they cry for help from philosophers and have left it to you to see whether philosophers might save themselves in saving others. It should have given examples of the psychology, the ethics, the logic and the metaphysics that appear in the law and have left it to you to decide what you choose to do about it—whether you prefer to teach philosophy or to teach philosophically.

I would not leave you with the impression that we have no philosophers among us. Those who wish to know what philosophy can do for the law have only to read the works of Roscoe Pound and of Mr. Justice Holmes. Of horrible examples to be avoided, there are many more whom it would not be courteous to name. The contrast between the good and the bad makes it all the more evident how much we need you. We look to you as the spinners of the golden thread. We wish you to weave that thread into all the fabric of life. The threads we weave need yours to make our texture what it ought to be. To those of you to whom concern for our problems would be a descent from your high appointed task, there is perhaps no better reply than to compare it with the other descents that are from time to time indulged in. For my part I confess that, if it is well to hitch your wagon to a star, it seems to me also well to hitch your star to a wagon.

THOMAS REED POWELL.

COLUMBIA UNIVERSITY.